

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JAMES MELVIN,

*Plaintiff,*

v.

HOBBY LOBBY STORES, INC.,

*Defendant.*

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CIVIL ACTION NO. 5:22-CV-1323

**DEFENDANT’S NOTICE OF REMOVAL**

COMES NOW, Hobby Lobby Stores, Inc., (“Hobby Lobby”) Defendant in the above-styled and numbered cause, and files this Notice of Removal of this action to the United States District Court for the Western District of Texas, San Antonio Division, respectfully showing the Court as follows:

**I.**

**PLAINTIFF’S CLAIMS AND PROCEDURAL HISTORY**

1. Plaintiff filed his Original Petition on or about November 9, 2022, in the 37th Judicial District Court of Bexar County, Texas. Plaintiff’s Original Petition is styled *James Melvin v. Hobby Lobby Stores, Inc.*, Cause No. 2022-CI-22038. Plaintiff, who is a former employee of Defendant, alleges discrimination on the basis of race and retaliation in alleged violation of the Texas Labor Code.

2. Hobby Lobby was served with process on November 17, 2022. Hobby Lobby timely filed its answer with the state court on December 7, 2022.

3. This Court has original jurisdiction over Plaintiff's claims on the basis of diversity of the parties. 28 U.S.C. § 1332. This civil action is properly removed to this district because the state court where the action has been pending is located within this district and division. 28 U.S.C. § 1441(a).

4. This Notice of Removal is accompanied by: (1) all executed process and pleadings in the case; and (2) the state court's docket sheet, collectively attached hereto as **Exhibit A**. No orders have been signed by the state court in this matter.

## II.

### **THIS CASE IS REMOVABLE BECAUSE THIS COURT HAS ORIGINAL JURISDICTION**

5. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and Plaintiff states in his Petition that he seeks damages of more than \$250,000. *See* Plaintiff's Original Petition ¶ 7. Specifically, Plaintiff is a resident of Bexar County, Texas. *Id.* at ¶ 4. Although residency is not always synonymous with citizenship, upon information and belief, Plaintiff is domiciled in Texas and therefore, is a Texas citizen. *See* Declaration of Clint B. Sloan ¶ 4 attached hereto as **Exhibit B**. Hobby Lobby is a foreign corporation that is organized under the laws of the state of Oklahoma and maintains its principal place of business in Oklahoma City, Oklahoma. *See id.* ¶ 3. As such, Hobby Lobby is a citizen of the state of Oklahoma and not a citizen of the state of Texas. *See* 28 U.S.C. § 1332(c)(1).

6. Thus, removal is proper under 28 U.S.C. § 1441(a) in that Hobby Lobby is removing the case to the federal court for the district and division in which the action is currently pending.

**III.**

**THIS NOTICE OF REMOVAL IS TIMELY**

7. Finally, Hobby Lobby has timely filed this Notice of Removal within 30 days of its receipt through service of process of a copy of the initial pleading establishing that this case is removable to this Court. 28 U.S.C. § 1446(b). Notice of this removal is being filed in the state court where the action is currently pending, and this Notice of Removal is also being served on Plaintiff through his counsel, pursuant to 28 U.S.C. § 1446(d). A copy of Defendant's Notice of Removal filed in the state court is attached hereto as **Exhibit C**.

WHEREFORE, PREMISES CONSIDERED, Defendant Hobby Lobby hereby removes this matter from the 37th Judicial District Court of Bexar County, Texas to this Honorable Court.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.**

/s/ Rebecca Magee

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**ATTORNEY FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of December, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Javier Espinoza  
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/s/ Rebecca A. Magee  
Rebecca A. Magee